

## **REMARKS**

Claims 1 and 42 are amended. Claim 59 is added. Claims 38-44 and 48-59 are in the application for consideration.

Claim 38 stands rejected as being anticipated by U.S. Patent No. 5,770,499 to Kwok et al. Claim 38 has been amended to emphasize that the well is formed within the insulative layer to comprise a base of said insulative layer, with such insulative layer within which said well is formed peripherally defining an outline of a memory array area. Accordingly, independent claim 26 inherently requires the well to comprise a base of the insulative layer within which the well was formed, and thereby requires a portion of such insulative layer to be received over the word lines. Kwok et al. does not disclose such. Kwok et al.'s layer 170, 172 within which its well is formed does not have a base of layer 170, 172 which is received over word lines within a memory array area. Further, claim 38 is amended to recite that the storage node comprises a portion having a container shape, with such container-shaped portion being received partially within the insulative layer through the insulative layer base of the well. No portion of the Kwok et al. container-shaped portion of its storage node electrode is shown received through any insulative layer base of a well. Accordingly, Applicant's independent claim 38 recites something which is neither shown nor suggested in the cited art, and should be allowed. Action to that end is requested.

Independent claim 42 stands rejected as being anticipated by Kwok et al. Independent claim 42 has been amended to emphasize that the well is formed within the insulative layer to comprise a base of said insulative layer, with such insulative layer within which said well is formed peripherally defining an outline of a memory array area. Accordingly, independent claim 42 inherently requires the well to comprise a base of the insulative layer within which the well was formed, and thereby requires a portion of such insulative layer to be received over the word lines. Such is not disclosed in Kwok et al. Further, the Examiner in response to Applicant's arguments asserts that Kwok et al.'s etch stop layer 170 is made of silicon nitride, and is analogous to Applicant's claim limitations. However, Kwok et al.'s etch stop layer 170 is not anywhere shown to be received over a well base. Accordingly, Applicant's independent claim 42 recites something which is neither shown nor suggested by Kwok et al., and the rejection thereof should be withdrawn. Action to that end is requested.

Applicant's dependent claims should be allowed as depending from allowable base claims, and for their own recited features which are neither shown nor suggested in the cited art. The cited Tu reference does not overcome the deficiencies identified above in Kwok et al., nor does the new recited Wolf reference in combination with Tu support the Examiner's assertion. Applicant makes no admission regarding the propriety of the Examiner's statements in the last action in this regard. Regardless, the dependent claim should be allowed.

New claim 59 is added, and clearly supported from Applicant's application as-filed.

This application is believed to be in immediate condition for allowance, and action to that end is requested.

Respectfully submitted,

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